

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUNG HO KIM,

Defendant.

CASE NO. CR10-0270-JCC

ORDER

This matter comes before the Court on Defendant Sung Ho Kim's motion for early termination of his supervised release (Dkt. No. 42). Having thoroughly considered the parties' briefing and the relevant record, the Court DENIES the motion for the reasons explained herein.

I. BACKGROUND

On April 29, 2011 Kim pled guilty to one count of bank fraud and one count of aggravated identity theft. (Dkt. No. 29 at 1.) On July 29, 2011, the Court sentenced Kim to 36 months imprisonment, to be followed by 5 years of supervised release. (Dkt. No. 38.) Kim's supervised release began in October 2013. (Dkt. No. 42-1 at 2.) Kim motions the Court to terminate his supervision approximately a year and a half early. (Dkt. No. 42 at 3.) Both the Government and Kim's probation officer oppose the motion. (Dkt. Nos. 44 at 1, 42 at 2.)

II. DISCUSSION

The Court must consider several factors in its evaluation of early termination, including

1 the nature and circumstances of the offense, the history and characteristics of the defendant, the
2 need to deter criminal conduct, the need to protect the public from further crimes, and the need to
3 avoid disparity. 18 U.S.C. § 3583(e). “[o]ccasionally, changed circumstances—for instance,
4 exceptionally good behavior by the defendant or a downward turn in the defendant’s ability to
5 pay a fine or restitution imposed as conditions of release—will render a previously imposed term
6 or condition of release either too harsh or inappropriately tailored to serve the general
7 punishment goals of section 3553(a).” *United States v. Miller*, 205 F.3d 1098, 1101 (9th Cir.
8 2000) (quoting *United States v. Lussier*, 104 F.3d 32, 36 (2d Cir. 1997)).

9 Kim was convicted of stealing the identities of more than 70 clients at his insurance
10 agency, and using the stolen identities to make over \$350,000 in fraudulent credit card
11 transactions. (Dkt. No. 44 at 1.) As part of Kim’s sentence, he was ordered to pay \$286,059.23 in
12 restitution, more than \$250,000 of which is still owing. (Dkt. Nos. 38 at 4, 44 at 4.) Although
13 Kim did not have any prior criminal convictions, his conduct in this case caused significant
14 damage. Since his release from custody, Kim has had no supervision violations, has successfully
15 reintegrated into the community, is working, and satisfied monthly restitution payments. (*Id.*)

16 Notwithstanding Kim’s good conduct on probation, the Court concludes early
17 termination of Kim’s supervised release is not appropriate under the circumstances. Kim has
18 complied with the conditions of supervision, but has not demonstrated exceptionally good
19 behavior that would warrant early termination. The Court expects probationers not to violate the
20 terms of release—Kim’s good behavior, while commendable, is not exceptional. Moreover,
21 while Kim has made routine restitution payments, he has a substantial balance owing. *See United*
22 *States v. Oak*, 398 Fed Appx. 274, 275 (9th Cir. 2010) (unpublished) (finding no abuse of
23 discretion for a court’s refusal to terminate supervision where restitution is still owing).

24 Kim has also not demonstrated a change of circumstances that would warrant early
25 termination. Kim’s argument for early termination is based entirely on his good behavior before
26 and after conviction, and he does not point to any changes in his circumstances that justify the

1 Court to reconsider his period of supervision. Kim does not appear to be having any trouble
2 complying with the conditions of release or paying his restitution. Because Kim has not
3 demonstrated any change in his circumstances, the Court does not perceive any hardship if he
4 were to continue on supervised release.

5 Consideration of the 18 U.S.C. § 3553(a) factors and the interests of justice do not
6 support Kim's request for early termination of his supervised release.

7 **III. CONCLUSION**

8 For the foregoing reasons, Mr. Kim's motion for early termination of his supervised
9 release (Dkt. No. 42) is DENIED.

10 DATED this 8th day of November 2017.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE